



The Comptroller General  
of the United States

Washington, D.C. 20548

Curcio PL-F

## Decision

Matter of: Gallegos Research Group  
File: B-227037  
Date: May 8, 1987

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### DIGEST

1. Protest that prospective awardee improperly used protester's proprietary data and attempted to recruit protester's employees concerns a dispute between private parties, not for resolution under General Accounting Office's (GAO) bid protest jurisdiction. To the extent this allegation concerns the prospective contractor's responsibility, that is a matter for consideration by the contracting agency, and GAO will review an affirmative decision in that regard only in limited circumstances.
2. Allegation that agency will interpret contract resulting from solicitation under which protester's offer was found unacceptable inconsistent with solicitation's terms is dismissed where agency denies allegation and General Accounting Office has no reason to question agency's position.

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### DECISION

Gallegos Research Group protests the anticipated award of a contract to COLSA Inc. and OAO Corporation (COLSA/OAO) under General Services Administration (GSA) solicitation No. KECA 86-011. We dismiss the protest without obtaining a report from GSA, pursuant to section 21.(f) of our Bid Protest Regulations, 4 C.F.R. part 21 (1986).

The solicitation is for data processing services for various federal agencies, who will order the services from the contractor as they are required. Gallegos, whose offer was eliminated from the competitive range, protests that COLSA/OAO hired a manager who was previously employed by Gallegos, the incumbent contractor, and who revealed Gallegos' proprietary information to COLSA/OAO. Gallegos further complains that COLSA/OAO attempted to recruit Gallegos employees, including contacting them while they were on government premises, a violation of solicitation clause H.5, which, according to Gallegos, provides that "the

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contractor shall not recruit on Government premises or otherwise act to disrupt official Government business." Gallegos also protests GSA's interpretation of the types of services available under the contract, and the rejection of Gallegos' offer.

We will not consider Gallegos' complaint that COLSA/OAO learned of and used proprietary Gallegos information by hiring the protester's former employees, or that COLSA/OAO otherwise engaged in unfair business practices by attempting to hire Gallegos employees. Since the government had no role in COLSA/OAO's actions, this issue involves a dispute between private parties, Gallegos and COLSA/OAO, and is for resolution by the courts, not by our Office. See Webb Designs, Inc., B-222437, July 1, 1986, 86-2 C.P.D. ¶ 2. As to Gallegos' point about clause H.5 of the solicitation, by its terms this clause applies to contractors, not potential contractors, and is intended to prohibit government contractors from recruiting current federal employees. It does not apply where, as here, a potential contractor allegedly is attempting to recruit the employees of another contractor.

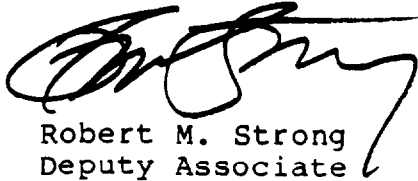
To the extent Gallegos' allegation concerns COLSA/OAO's integrity or business ethics, those are matters pertinent to COLSA/OAO's responsibility as a prospective contractor. Federal Acquisition Regulation (FAR), 48 C.F.R. § 9.104-1 (1986). Before GSA awards a contract to COLSA/OAO, the agency is required to determine that the firm is responsible, see FAR, 48 C.F.R. § 9.103, a determination that our Office generally does not review. 4 C.F.R. § 21.3(f)(5).

Gallegos' next complaint is that GSA originally interpreted the solicitation to cover only tasks that require four or more persons to complete, and offers were submitted on that basis, but Gallegos understands that GSA later determined that user agencies would be permitted to order tasks that require less than four persons. According to the protester, Gallegos would like to sell to the same agencies data processing services not covered by the GSA contract, and neither Gallegos nor its prospective clients is sure about whether the GSA contract is available to an agency that requires tasks needing less than four persons to complete. Gallegos complains about the adverse impact on its commercial activities, and requests that we resolve this issue and definitively interpret that aspect of the contract.

We dismiss this part of Gallegos' protest also. In response to a protest Gallegos filed with GSA, the agency answered that the solicitation only covers tasks that require at least four employees to complete. Gallegos admits that the

solicitation to which it responded, unsuccessfully, was clear in that regard, and we have no reason to question GSA's response to Gallegos. Accordingly, Gallegos' protest to our Office raises no bid protest issue for resolution.

The protest is dismissed.

A handwritten signature in black ink, appearing to read "R. M. Strong", is written over the typed name and title.

Robert M. Strong  
Deputy Associate  
General Counsel